

REMARKS

In response to the Official Action mailed September 29, 2003, Applicants respectfully traverse the restriction requirement. Examination of the patent application would be most expeditious by examining all pending claims together. As Section 803 of the MPEP requires,

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct and/or independent inventions.

The restriction requirement is improper because the Examiner has not shown that a search and examination of the entire application would, indeed, cause a serious burden, as required by Section 803 of the MPEP for proper restriction. In fact, a serious burden would arise only if examination of the patent application were restricted to one of the claim groups. Filing an additional patent application containing the non-elected claims would unnecessarily burden (1) the Patent and Trademark Office, since it must assume the additional labor involved in examining at least two separate applications; (2) the public, since it will have to analyze at least two patents (assuming the subject matter of each claim group is found patentable) to ascertain all of the claimed subject matter; and (3) the Applicants, since the Applicants must bear the substantial financial burden and delays associated with prosecution of multiple patent applications and the payment of maintenance fees for multiple patents.

However, to comply with the requirements of the Patent and Trademark Office, Applicants provisionally elect Group I (claims 34-57, 60-62, and 71-73) directed to a method of culturing a microorganism for the synthesis of docosahexaenoic acid.

To better define the invention by more particularly pointing out and distinctly claiming the invention, the claims have been amended, claims 35, 52-57, 60-64, and 67-73 have been cancelled and new claims 74-85 have been added. The claim amendments and the new claims are fully supported by the original specification, claims and drawings. No new matter has been added.

In re Appln. of : RATLEDGE et al.
Serial No. 10/030,700

A favorable action is solicited.

Respectfully submitted,

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SDS/nc

Restriction Requirement - Short Form (Revised 7/30/03)